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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,749	06/20/2001	Elise Anna Walthera Hendrina Van Den Hoven	NL000372	3507

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EXAMINER

VU, KIEU D

ART UNIT PAPER NUMBER

2173

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,749

Applicant(s)

VAN DEN HOVEN ET AL.

Examiner

Kieu D. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the Amendment filed 07/27/04 and 04/13/05.
2. Claims 1-14 are pending.

Claim Objections

3. Claim 14 is objected since it has a typographical error as follows:
line 5 of the claim, "the elected image" should be rewritten as "the selected image".

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-2, 4, and 6-8 are rejected under 35 U.S.C. 101.

Regarding claims 1-2, 4, and 6, the claims claim a device per se and do not positively recite that the device is a technological device. As such, the claim invention is directed to a non-statutory subject matter.

Regarding claim 8, since the claim claims "A computer program product" per se and does not positively recite that the program is stored on a medium that can be read by a machine. As such, the claimed invention is not directed to a machine readable medium or a manufacturer article. Therefore, the claim is directed to a non-statutory subject matter.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "that representation". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-2, 7, 8/1, 8/2, 9, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Pavley et al ("Pavley", USP 6317141).

Regarding claims 1, 7 and 8/1, Pavley teaches a method and device (100) for browsing an image collection (see Figure 4A; column 7, line 37 to col. 8, line 6), comprising browsing means for showing a sequence of representations in a browsing area (see figure 4A), each representation corresponding to an image from the image collection (each thumbnail corresponds to an image), and display means for showing, in response to a selection of a representation from said sequence (see figures 6-8, 9A and 9B which shows the formation of a slide show in response to a selection of at least one

image (302, 322 or 342)), in a display area 140 an image from the image collection corresponding to the selected representation (302, 322 or 342), characterized in that each representation in the sequence has a portion that can be used to select characteristics of that representation (each image 304 has a portion 306 that can be used to select characteristics (media types) of that image) and the browsing means is arranged to show the sequence by continuously scrolling the sequence in the browsing area (column 8, lines 16-33).

Regarding claim 2, 9 and 8/2, Pavley teaches the invention substantially as claimed as specified in claim 1 above. Pavley further teaches that a representation is shown together with a border area functioning as the portion (each image 304 is shown together with a border area 306 functioning as the portion). In addition, Pavley also shows that a slide show consisting of objects 302, 322 and 342 is formed in response to a selection of a border area of image 302. These objects are in the same category of having audio file. Thus, the slide show is performed in response to a selection of a border area of image 302.

Regarding claim 14, Pavley teaches a method (col 2, lines 39-44) of browsing an image collection (see Figure 2A; column 2, lines 44-47), comprising browsing means for showing a sequence of image in a browsing area, each of the image in the sequence corresponding to a displayable element within the image collection (area on top of area 140 in which filmstrip 352 displays 4 thumbnail images at a time 350) (each thumbnail corresponds to an image), selecting one of the images in the sequence and in response to selection, showing the selected image from the sequence in a display area 354

(object 302) (Fig. 4B), wherein, each of the images in the sequence has a portion that can be used to select characteristics of that representation (each image 304 or 302 has a portion 306 that can be used to select characteristics (media types) of that image) and the browsing means is arranged to show the sequence by continuously scrolling the sequence in the browsing area (column 8, lines 16-33) and the sequence is shown by continuously scrolling the sequence in the browsing area (thumbnails 350 scroll across the top of display area 140) (see Fig. 4B and column 8, lines 16-33) .

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 10, and 8/3 (claim 8 that depends on claim 3) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley and Mills et al ("Mills", USP 5237648).

Regarding claims 3, 10, and 8/3, Pavley teaches the invention substantially as claimed as specified in claim 1 above. Pavley does not teach that the selection of that the selection of a representation comprises dragging the representation from the browsing area to the display area. However, such feature is known in the art as taught by Mills. In the same field of editing video, Mills teaches steps for video editing which comprises the dragging a miniaturized edit frame in the clip list window and releasing it in the video window (see Fig. 4b; column 6, lines 12-18). Therefore, it would have been obvious to one of ordinary skill in video editing art, having the teaching of Pavley and

Mills before him at the time the invention was made, to modify the media editing apparatus taught by Parley to include the dragging edit frame from the clip list window to the video window taught by Mills with the motivation being to greatly simplify of editing video clip sequences (see Mills; column 6, lines 12-9).

12. Claims 4, 11, and 8/4 (claim 8 that depends on claim 4) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley, and Yamada et al ("Yamada", USP 6259432).

Regarding claims 4, 11, and 8/4, Pavley teaches the invention substantially as claimed as specified in claim 1 above. Pavley does not teach that a speed of the scrolling of the sequence is varied in accordance with a speed of an input stroke in the browsing area. However, such feature is known in the art as taught by Yamada. In the same field of graphical user interface, Yamaha teaches an information processing apparatus that can adjust the scrolling speed for data displayed based on a speed of mouse cursor in the display area (column 6, lines 33-47). Therefore, it would have been obvious to one of ordinary skill in graphical user interface art, having the teaching of Pavley and Yamada before him at the time the invention was made, to modify the graphic browsing method taught by Parley to include adjusting the scrolling speed for data displayed based on a speed of mouse cursor in the display area taught by Yamada with the motivation being to enable the Pavley's system to employ the input device to adjust the scrolling speed for data (thumbnails) displayed and to display a visual scrolling speed indicator that enables a user to easily apprehend the scrolling speed (see Yamada, line 64 of column 4 to line 2 of column 5).

13. Claims 5, 12, and 8/5 (claim 8 that depends on claim 5) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley and Soohoo (USP 6211879).

Regarding claims 5, 12, and 8/5, Pavley teaches the invention substantially as claimed as specified in claim 1 above. Pavley does not teach that a direction of the scrolling of the sequence is varied in accordance with a direction of an input stroke in the browsing area. However, such feature is known in the art as taught by Soohoo. In the same field of graphical user interface, Soohoo teaches a navigation method for navigating and viewing document (comprises graphic; column 1, lines 60-65). Soohoo's teaching comprises scrolling displayed information in a direction in accordance with a direction of an input stroke in the browsing area (when the cursor comes within a particular of an edge of the first window, the document is scrolled) (see Figures 1A and 1B; see column 2, lines 37-46). Therefore, it would have been obvious to one of ordinary skill in graphical user interface art, having the teaching of Pavley and Soohoo before him at the time the invention was made, to modify the graphic browsing method taught by Pavley to include scrolling displayed information in a direction in accordance with a direction of an input stroke in the browsing area taught by Soohoo with the motivation being to quickly and easily scroll the browsing area (see Soohoo in column 1, lines 17-19 and 36-42 where Soohoo teaches the advantages of his scrolling method).

14. Claims 6, 13, and 8/6 (claim 8 that depends on claim 6) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley and Kenny (USP 6437802).

Regarding claims 6, 13, and 8/6, Pavley teaches the invention substantially as claimed as specified in claim 1 above. Pavley does not teach that arranged to show

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interleaved in the sequence a representation of a command to be executed when selected. However, such feature is known in the art as taught by Kenney. In the same field of video editing art, Kenny teaches a video editing technique which comprises the interleaving commands with other actions and the executing the commands (column 1, lines 32-61). Therefore, it would have been obvious to one of ordinary skill in video editing art, having the teaching of Pavley and Kenney before him at the time the invention was made, to modify the video editing method taught by Parley to include the interleaving commands with other actions and the executing the commands taught by Kenny with the motivation being to enable a user to view, interact with the device, and edit the playlist (representation sequence) even while the download of the sequence is proceeding (see Kenny, column 1, lines 58-61).

15. Response to Applicant's arguments filed on 04/13/05.

Applicant argues "Regarding Claims 1-2, 4, and 6, the Examiner states these claims do not define statutory subject matter because they recite that the device is a technological device and as such do not define statutory subject matter." However, that is not what is stated in the rejection mailed 01/13/05. In fact, the Examiner states, "Regarding claims 1-2, 4, and 6, the claims claim a device per se and do not positively recite that the device is a technological device. As such, the claim invention is directed to a non-statutory subject matter."

According to Merriam-Webster's Collegiate Dictionary (Tenth Edition), a "device" is a "plan, procedure, technique". The Dictionary further defines that "procedure" is "a series of instructions for a computer that has a name by which it can be called into

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action". Therefore, "device" can be a computer program product. "A device" per se as claimed in claims 1, 2-4, and 6 is indeed "A computer program product" per se. It is neither tied to a technological art nor stored in a tangible computer readable medium. Therefore, claims 1, 2-4, and 6 do not result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Applicant argues, "Claim 8 positively recites a program that can readily be used by a machine. There are numerous mediums that can be used to store the computer program product defined by claim 8, and this will be apparent to those skilled in the art.....electronic data storage media such as disc drives and memory technology, as well as electrical signals can be used to implement the computer program product defined by claim 8 ...to provide the device defined by Claim 1". However, Claim 8 only recites "A computer program product" and does not positively recite that the computer program product is stored on a tangible medium that can be read by a machine. A computer program product represents at best software per se and is not tied to any physical structure which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101. See *State Street*, 149 F.3d at 1374-75, 47 USPQ2d at 1602 (Fed. Cir. 1998) (MPEP 2106)

In response to Applicant's argument that Parley does not teach showing a sequence of images wherein each image in the sequence has a portion that can be used to select the characteristics of that image, it is noted that Parley does teach this

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feature. Each image 304 or 302 has a portion 306 that can be used to select characteristics (media types) of that image (See Fig. 4A, 4B) (also see col 8, lines 41-46).

Applicant's argument regarding Cecco is moot under new ground of rejection.

16. Applicant's amendment filed 07/27/04 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

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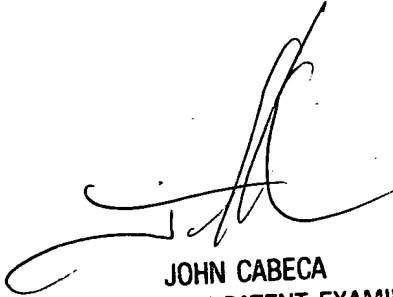
703-872-9306

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

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Kieu D. Vu
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